

AMENDED IN SENATE JULY 3, 2012
AMENDED IN ASSEMBLY JANUARY 12, 2012
AMENDED IN ASSEMBLY JANUARY 4, 2012
CALIFORNIA LEGISLATURE—2011–12 REGULAR SESSION

ASSEMBLY BILL

No. 1289

Introduced by Assembly Member Davis

February 18, 2011

An act to amend Section 70377 of the Government Code, relating to court facilities.

LEGISLATIVE COUNSEL'S DIGEST

AB 1289, as amended, Davis. Court facilities.

Existing law establishes the State Court Facilities Construction Fund for the planning, design, construction, rehabilitation, renovation, replacement, leasing, or acquisition of state court facilities. Existing law levies a state court construction penalty, as specified, upon every fine, penalty, and forfeiture imposed and collected for all criminal offenses and all parking offenses for which a parking penalty, fine, or forfeiture is imposed. Moneys deposited in the county treasury under those provisions must be transmitted to the Controller for deposit in the State Court Facilities Construction Fund. Existing law further requires that any amounts required to be transmitted by a county to the Controller under these provisions to be remitted no later than 45 days after the end of the month in which the penalties were collected. Any remittance made later than this time is considered delinquent and is subject to specified penalties. Upon receipt of a delinquent payment, the Controller is required to calculate a penalty on the delinquent payment by multiplying the amount of the delinquent payment at a daily rate

equivalent to 1 ½% per month for the number of days the payment is delinquent. Existing law requires the county to pay the penalty amount calculated pursuant to these provisions to the Controller, as specified, and requires the Controller to deposit these moneys in the State Court Facilities Construction Fund.

This bill would require the Controller to calculate the interest on the delinquent payment, as specified, and would revise the formula for calculating the penalty. The bill would also require a county, city and county, or court to pay the interest or penalty amounts calculated under these provisions, as specified, to the State Court Facilities Construction Fund. The bill would authorize the Controller to permit a county, city and county, or court to pay the interest or penalty amounts under a payment schedule if the interest or penalty amount causes a hardship to that entity. Further, the bill would require that payment be made by the entity responsible for the error or other action that caused the failure to pay, as determined by the Controller in a notice given to that party by the Controller, and would define that entity as including a party that collects the funds but is not responsible for remitting them to the state if that party failed to provide or delayed providing the remitting party with information necessary for remitting the funds. The bill also provides that these changes apply to all delinquent payments for which the Controller has not issued a final audit before January 1, 2013.

Vote: majority. Appropriation: no. Fiscal committee: yes.
 State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 70377 of the Government Code is
 2 amended to read:
 3 70377. (a) Any amounts required to be transmitted by a county,
 4 city and county, or court to the state pursuant to this section shall
 5 be remitted to the State Treasurer no later than 45 days after the
 6 end of the month in which the fees, assessments, or penalties were
 7 collected. This remittance shall be accompanied by a remittance
 8 advice identifying the collection month and the appropriate account
 9 in the State Court Facilities Construction Fund or the Immediate
 10 and Critical Needs Account of the State Court *Facilities*
 11 Construction Fund to which it is to be deposited. Any remittance
 12 made later than this time shall be considered delinquent and subject
 13 to the interest and penalties specified in this section.

1 (b) Upon receipt of any delinquent payment required pursuant
2 to this section, the Controller shall do the following:

3 (1) Calculate the interest on the delinquent payment by
4 multiplying the amount of the delinquent payment at a daily rate
5 equivalent to the rate of return on money deposited in the Local
6 Agency Investment Fund pursuant to Section 16429.1 from the
7 date the payment was originally due to either 30 days after the date
8 of the issuance by the Controller of the final audit report concerning
9 the failure to pay or the date of payment by the entity responsible
10 for the delinquent payment, whichever comes first. *In calculating*
11 *the interest under this paragraph, the Controller shall apply the*
12 *average monthly Local Agency Investment Fund rate over the*
13 *period of delinquency.*

14 (2) Calculate a penalty at a daily rate equivalent to 1 ½ percent
15 per month from the date 30 days after the date of the issuance by
16 the Controller of the final audit report concerning the failure to
17 pay.

18 (c) Interest or penalty amounts calculated pursuant to subdivision
19 (b) shall be paid by the county, city and county, or court to the
20 State Court Facilities Construction Fund or the Immediate and
21 Critical Needs Account of the State Court Facilities Construction
22 Fund, whichever is appropriate, no later than 45 days after the end
23 of the month in which the interest or penalty was calculated.
24 Payment shall be made by the entity responsible for the error or
25 other action that caused the failure to pay, as determined by the
26 Controller in a notice given to that party by the Controller.

27 (d) Notwithstanding Section 77009, the court may pay any
28 penalty or interest imposed pursuant to this section due to an error
29 or other action by the court from money received from the Trial
30 Court Trust Fund. This section does not require an increase in a
31 court's allocation from the Trial Court Trust Fund.

32 (e) The Controller may permit a county, city and county, or
33 court to pay the interest or penalty amounts according to a payment
34 schedule in the event of a large interest or penalty amount that
35 causes a hardship to the paying entity.

36 (f) The party responsible for the error or other action that caused
37 the failure to pay may include, but is not limited to, the party that
38 collected the funds who is not the party responsible for remitting
39 the funds to the State Court Facilities Construction Fund or the
40 Immediate and Critical Needs Account of the State Court Facilities

- 1 Construction Fund, if the collecting party failed or delayed
- 2 providing the remitting party with sufficient information needed
- 3 by the remitting party to distribute the funds.
- 4 (g) The changes made to this section by the act adding this
- 5 subdivision shall apply to all delinquent payments for which the
- 6 Controller has not issued a final audit before January 1, 2013.